

December 22, 2015

## Summary of December 10-11, 2015, Board Meeting

**This is a summary of the December 10-11, 2015, meeting of the Iowa Board of Medicine.**

**Total Cases Reviewed:** The Board reviewed 145 cases.

**New Investigative Cases:** The Board reviewed 53 new investigative cases.

**Settlement Agreements:** After the Board has determined that probable cause exists to take formal disciplinary action and formal disciplinary charges have been filed, the Board and the licensee may enter into a Settlement Agreement to resolve the pending disciplinary charges rather than hold a formal disciplinary hearing.

The Board approved 2 Settlement Agreements.

1. An Iowa-licensed physician who formerly practiced vascular surgery in Des Moines, Iowa, entered into a Settlement Agreement with the Board on December 11, 2015. On October 16, 2015, the Board filed formal disciplinary charges against the physician alleging that he failed to provide appropriate surgical care to multiple patients in Des Moines, Iowa. The Board alleged that the physician engaged in professional incompetency including poor clinical judgment and reasoning; incomplete evaluations; poor candidate selection; inadequate treatment planning; inconsistent recognition of complications; inadequate documentation and poor communication. The Board also alleged that the physician engaged in a pattern of disruptive behavior in the practice of medicine that interferes with, or has the potential to interfere with, patient care or the effective functioning of health care staff. Under the terms of the December 10, 2015, Settlement Agreement, the Board issued the physician a Citation and Warning and ordered him to pay a \$5,000 civil penalty. The Board also placed him on probation for a period of five (5) years subject to Board monitoring, including a Board-approved individualized educational intervention and practice monitoring plan. The physician also agreed to complete a Board-approved training program for disruptive behavior.

2. An Iowa-licensed physician who formerly practiced family medicine in Des Moines, Iowa, entered into a Settlement Agreement with the Board on December 11, 2015. On March 6, 2014, the Board filed formal disciplinary charges against the physician alleging that he diverted controlled substances from patients for his own use on multiple occasions in 2013. On January 9, 2015, the physician was convicted of obtaining or attempting to obtain a prescription drug (hydrocodone) by fraud, deceit, misrepresentation, or subterfuge (Iowa Code §155A.23, 155A.24, and 124.401(1)(c)(8), a Class C Felony, in the Iowa District Court for Polk County, following submission of a written plea of guilty. The physician has not practiced medicine since the charges were filed by the Board and has agreed not to practice until he receives approval from the Board. The physician has successfully completed substance abuse treatment, counseling and urine drug screening. Under the terms of the December 10, 2015, Settlement Agreement, the Board issued the physician a Citation and Warning and ordered him to pay a \$5,000 civil penalty and complete a Board-approved professional ethics program. The Board also placed the physician on indefinite probation subject to Board monitoring including substance abuse counseling and urine drug screening.

**Reinstatement Orders:** The Board issues Reinstatement Orders when a physician's medical license has been suspended and the Board determines that the physician has satisfactorily completed the requirements for reinstatement, the basis for the suspension no longer exists and it is in the public interest to reinstate the license.

The Board approved 1 Reinstatement Order.

1. An Iowa-licensed physician who formerly practiced pediatric medicine in Iowa City, Iowa, had his Iowa medical license reinstated by the Board on December 11, 2015. On March 6, 2014, the Board charged the physician with engaging in a pattern of sexual harassment, unethical or unprofessional conduct and/or practice harmful or detrimental to the public. A hearing was held on January 8-9, 2015. At that time of the hearing, the physician practiced pediatric medicine in Dublin, Ohio. On February 19, 2015, the Board issued a Findings of Fact, Conclusions of Law, Decision and Order. The Board concluded that the physician made improper and unwanted sexual comments and sexual advances toward female co-workers and engaged in sexual relations with female co-workers. The Board concluded that the physician engaged in conduct of a sexual nature in the workplace which interfered with other health care worker's performance and/or created an intimidating, hostile or offensive work environment. The Board suspended his Iowa medical license, issued him a Citation and Warning and ordered him to pay a \$10,000 civil penalty. Recently, the physician submitted a Request to Lift Suspension. The physician demonstrated that he successfully completed a Board-approved professional boundaries program and has participated in Board-approved psychotherapy and he argued that the basis for the suspension of his Iowa medical license no longer exists and it is in the public interest to reinstate his license. On December 11, 2015, the Board issued a Reinstatement Order. The Board reinstated the physician's Iowa medical license and placed him on indefinite probation including: written notice at least thirty (30) days prior to practicing medicine under his Iowa medical license; compliance with the Board's monitoring program; compliance with the Board-approved professional boundaries program; polygraph examinations; psychotherapy; a worksite monitor; quarterly reports; appearances and a monitoring fee.

**Termination Orders:** The Board issues Termination Orders when a physician successfully completes the requirements of a disciplinary order or the term of probation.

The Board approved 2 Termination Orders.

1. An Iowa-licensed physician who practices neurosurgery in Omaha, Nebraska, had the terms of his probation terminated on December 11, 2015. The physician entered into a combined Statement of Charges and Settlement Agreement with the Board on January 13, 2012. The Board charged the physician with violating appropriate professional boundaries when he engaged in an inappropriate relationship with, and provided financial assistance to, a female patient, during a period when she was under the physician's care in 2009, in Omaha, Nebraska. The Board issued the physician a Citation and Warning and ordered him to pay a \$7,500 fine. The Board also placed him on probation for a period of five (5) years subject to Board monitoring and professional boundaries counseling. On December 11, 2015, the Board terminated the terms of probation and returned his license to its full privileges, free of all restrictions.
2. An Iowa-licensed physician who practices family medicine in Fort Madison, Iowa, had the terms of his probation terminated on December 16, 2015. On July 8, 2010, the physician entered into a combined Statement of Charges and Settlement Agreement with the Board. The Board charged the physician with failing to conform to the minimal standard of acceptable and prevailing practice of medicine in Iowa and engaging in unethical or unprofessional conduct. The physician agreed not to practice medicine until he received written approval from the Board. The Board also issued him a Citation and Warning and ordered him to pay a \$7,500 civil penalty and complete Board-approved counseling and a professional ethics program. On December 16, 2010, the Board reinstated the physician's Iowa medical license and placed him on probation for a period of five (5) years subject to Board monitoring, including counseling and a physician mentoring plan. On December 16, 2015, the physician successfully completed the term of his probation and the Board terminated the terms of probation and returned his license to its full privileges, free of all restrictions.

**Dismissal Orders:** The Board issues Dismissal Orders when the Board determines that it is unable to, or unnecessary to, proceed with pending disciplinary charges.

The Board approved 1 Dismissal Order.

1. An Iowa-licensed physician who formerly practiced cardiovascular medicine in London, Kentucky, had formal disciplinary charges dismissed on December 11, 2015. On June 4, 2013, the physician pleaded guilty to health care fraud in the United States District Court, Eastern District of Kentucky. The physician falsely recorded the severity of patients' illnesses in order to receive payment for numerous heart procedures in 2009 and 2010. The physician was sentenced to 30 months in federal prison and was excluded from the Medicare, Medicaid and all other federal health care programs for a minimum of five years. On June 20, 2013, the physician forfeited his Kentucky medical license. On May 15, 2015, the Iowa Board charged the physician with being convicted of a felony related to the practice of medicine and being disciplined by the Kentucky Board. Effective July 1, 2015, the physician relinquished his Iowa medical license because he failed to renew or reinstate his Iowa license within five (5) years after its expiration. Therefore, the physician no longer holds an Iowa medical license and the Board dismissed the pending disciplinary charges.

## **Notice of Satisfaction of Stipulated Licensure Order:**

The Board approved 1 Notice of Satisfaction of Stipulated Licensure Order.

1. A physician who previously applied for an Iowa resident physician license had a Notice of Satisfaction of Stipulated Licensure Order issued by the Board on December 11, 2015. On September 3, 2003, the Board issued a Notice of Denial of License after the Board determined that the physician failed to disclose his previous residency training on his application for an Iowa resident physician license. On February 26, 2004, the Board issued a Stipulated Licensure Order withdrawing the Notice of Denial of License and the physician agreed to complete certain terms and conditions, including additional post-graduate training at a program accredited by the Board, prior to seeking Iowa medical licensure in the future. Recently, the physician demonstrated that he successfully completed a preliminary surgery internship at Nassau University Medical Center in East Meadow, New York, from July 1, 2004, through June 30, 2005; an internal medicine residency training program at New York Medical College in Valhalla, New York, from July 1, 2006, through June 30, 2009; the internal medicine board certification exam for the American Board of Internal Medicine in 2009; residency training in medical oncology at McGill University in Montreal, Canada, from July 1, 2009, through June 30, 2011; and a Board-approved professional ethics program. On December 10, 2015, the Board issues this Notice of Satisfaction of Stipulated Licensure Order recognizing that the physician has successfully completed additional post-graduate training at a program accredited by the Board and he may seek Iowa medical licensure in the future.

**Confidential Evaluation Orders:** If the Board receives evidence that a physician may suffer from a physical, neurological or mental condition, or has engaged in substance abuse, sexual misconduct or disruptive behavior, the Board may issue a confidential evaluation order requiring the physician to complete an appropriate evaluation at a Board-approved program. Additionally, if the Board receives evidence that a physician lacks the appropriate knowledge or ability to practice medicine with reasonable skill or safety or that a physician has failed to provide appropriate medical care to patients, the Board may issue a confidential order requiring the physician to complete a competency evaluation at a Board-approved competency assessment program.

The Board approved 1 Confidential Evaluation Order due to the following concerns:

1. Concerns that an Iowa-licensed physician violated professional boundaries when he engaged in sexual relations with a co-worker for whom he also provided medical care and for engaging in disruptive behavior in the practice of medicine.

**Confidential Letters of Warning or Education:** When the Board determines that probable cause does not exist to take formal disciplinary action against a licensee the Board may send a confidential, non- disciplinary, letter to the licensee expressing concerns and requesting that the licensee take corrective action, including further education.

The Board voted to issue 12 confidential Letters of Warning or Education due to the following concerns:

1. Concerns that a physician failed to report abnormal test results to a patient and failed to provide appropriate follow-up.
2. Concerns about a physician's diagnosis, treatment and management of a patient who was subsequently diagnosed with a contagious disease.

3. Concerns about a physician's postoperative care including the delayed diagnosis and treatment of a patient who experienced serious postoperative complications.
4. Concerns that a physician prescribed excessive amounts of opioids and benzodiazepines to a patient.
5. Concerns that a physician failed to complete an electronic death certificate in a timely manner.
6. Concerns that a physician failed to complete an electronic death certificate in a timely manner.
7. Concerns that a physician failed to complete an electronic death certificate in a timely manner.
8. Concerns about a physician's postoperative care including the delayed diagnosis and treatment of a patient who experienced serious postoperative complications.
9. Concerns that a physician falsified medicine-related forms.
10. Concerns that a physician prescribed medications to an individual without performing appropriate examinations and without maintaining appropriate medical records.
11. Concerns that an Iowa-licensed physician was sanctioned by another state licensing Board for failing to report a malpractice settlement and the suspension of privileges to the other state licensing Board.
12. Concerns that an Iowa-licensed physician was sanctioned by another state licensing Board for allowing an unlicensed staff member to dispense medications in the physician's absence.

**Monitoring Committee:** The Monitoring Committee monitors licensees who are subject to a Board disciplinary order and require monitoring.

The Monitoring Committee reviewed 10 physicians who are being monitored by the Board and held 4 physician appearances.

**Screening Committee:** The Screening Committee reviews cases that are lower priority to determine whether investigation is warranted.

The Screening Committee reviewed 29 cases.

**Licensure Committee:** The Licensure Committee reviews initial license applications, renewals, and reinstatements, as well as other licensure policies and issues. Most license applications are approved by Board staff without Licensure Committee review. However, some applications raise concerns about an applicant and the Licensure Committee must review the matter to determine whether a license should be granted, renewed or reinstated.

**Committee Work:**

The Committee reviewed 8 licensure applications. Five permanent licenses were granted, one permanent license was reinstated, and two applications were left open to obtain further information or allow the applicant to withdraw.

The Committee recommended the Board grant a request for waiver of Iowa Administrative Code 653-9.3(1)c(3) which defines approved postgraduate training as those programs accredited by Accreditation Council for Continuing Medical Education (ACGME), American Osteopathic Association (AOA), Royal College of Physicians and Surgeons of Canada (RCPSC), and College of Family Physicians of Canada (CFPC). The Board approved the Committee's recommendation.

The Committee recommended the Board deny a request for waiver of Iowa Administrative Code 653-9.7(3)a which states that applicants who took the Federation

Licensing Exam (FLEX) between 1968 to 1985 must provide evidence of successful achievement of at least two of the requirements; passed with weighted average of 75 in no more than two sittings, licensed in the state that administered the examination, and evidence of current board certification. The Board approved the Committee's recommendation.

The Committee approved 11 Letters of Warning that were issued due to concerns that the applicants failed to provide truthful, accurate or complete information on their applications.

#### **Committee Discussion Items:**

##### Updates to Chapter 9

The Committee reviewed several updates to Chapter 9. Some of the changes include referencing *Chapter 8 – Fees* rather than defining fees within Chapter 9; requiring 40 hours of Category 1 continuing medical education (CME) for reinstatement applicants; requiring a direct email for applicants; and allowing renewal notices to be sent by methods other than the United States Postal Service.

#### **In other action the Board:**

- Adopted **ARC2346C**, a new administrative rule to implement 2015 Iowa Acts, Senate File 276, which declares that a person's permanent license to practice medicine or administrative medicine shall be deemed relinquished if the person fails to apply for renewal or reinstatement of the license within five years after its expiration. The rule will be published again in the Iowa Administrative Bulletin on January 6, 2016, is scheduled to become effective February 10, 2016.
- Initiated rulemaking to implement 2015 Iowa Acts, Senate File 276, which creates a license for the administrative, non-clinical practice medicine. The proposed amendments to 653 Iowa Administrative Code Chapters 9 and 11 will be published as **ARC2359C** in the Iowa Administrative Bulletin on January 6, 2016, and a public hearing is scheduled for 1 p.m. January 26, 2016.
- Initiated rulemaking to implement 2015 Iowa Acts, Senate File 505, Division XXXI, Section 113, which requires the Boards of Medicine and Physician Assistants to jointly adopt rules to establish specific minimum standards or a definition of supervision for appropriate supervision of physician assistants by physicians. The proposed rule is scheduled to be published in the Iowa Administrative Bulletin on January 20, 2016, and a public hearing is scheduled for 9 a.m. February 9, 2016.
- Initiated rulemaking to make several amendments in 653 Iowa Administrative Code Chapter 9 to update language and rescind outdated rules. The amendments will be published as **ARC2306C** in the Iowa Administrative Bulletin on January 6, 2016, and a public hearing is scheduled for 1:30 p.m. January 26, 2016.
- Temporarily terminated the rulemaking for **ARC2298C**, which is several amendments to 653 Iowa Administrative Code Chapter 17, "Licensure of Acupuncturists." The notice of termination, to be published as **ARC2447C** in the Iowa Administrative Bulletin on January 6, 2016, will allow the Board more time to review the proposed amendments and Iowa Code Chapter 148E concerning the practice of acupuncture. The Board is expected to file a new notice of intended action once it completes its review.

- Appointed Lester J. Yen, M.D., West Des Moines, and Kim Brangoccio, Booneville, to three-year terms on the Iowa Physician Health Committee, which oversees a confidential advocacy and monitoring program for physicians with diagnosed impairment. The program had 70 active cases on November 30.
- Received reports from the Iowa Attorney General's Office on seven disciplinary cases.

**A press release describing public disciplinary action taken by the Board was distributed and posted on the Board's Website on December 18, 2015. If you have questions about this summary or the Board's press release, please contact Kent M. Nebel, J.D., Legal Director, at (515) 281-7088 or [kent.nebel@iowa.gov](mailto:kent.nebel@iowa.gov).**